

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA

CASE NO.

v.

GARY L. VARNEY

STATEMENT OF FACTS

Defendant Gary L. Varney and his wife, Patty, own Varney Dispatch, Inc. (VDI) and PPV, Inc. (PPV). VDI and PPV are related companies, owned and operated from 3240 Production Drive, Fairfield, Ohio. On August 16, 2001, the defendant opened a commercial checking account, account number ****5425, in the name of PPV, at Fifth Third Bank (FTB). On August 16, 2001, the defendant opened up a commercial checking account, account number ****5353, in the name of VDI, at FTB. On August 20, 2001, the defendant opened a controlled disbursement checking account, account number ****0782, in the name of PPV, at FTB. On August 20, 2001, the defendant opened a controlled disbursement account, account number ****0774, in the name of VDI, at FTB.

Account numbers ****5425 and ****5353, which are FTB commercial checking accounts, are housed in a Cincinnati Affiliate. Account numbers ****0782 and ****0774, which are controlled disbursement accounts, are housed in a Western Ohio Affiliate. A one-day float is created between the FTB commercial checking accounts and their corresponding control disbursement accounts because they are housed in different affiliates. The controlled disbursement checking accounts are zero balanced every day and cleared against their related commercial checking accounts.

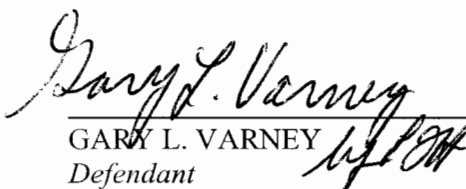
In about August 2001, the defendant started kiting checks between the four FTB accounts. The defendant utilized the float created between the commercial checking accounts and the

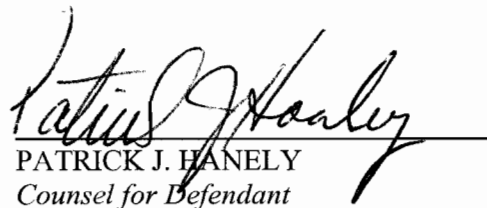
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controlled disbursement accounts to inflate the balances of the commercial checking accounts. Varney artificially inflated the balance in each of the respective accounts by writing several checks from the controlled disbursement accounts, payable to the commercial checking accounts from the other company. Mr. Varney wrote checks from account number ****0782, payable to VDI, and deposited the checks the next business day at FTB in account number ****5353. Mr. Varney wrote several checks from account number ****0774, payable to PPV, and deposited the checks the next business day at FTB in account number ****5425. The purpose of creating and depositing these checks was to artificially inflate the account balances of the commercial accounts. Varney generally deposited 10 to 14 floated checks into each account every business day to keep the float from being discovered. The controlled disbursement accounts were zeroed out at the end of each day and cleared against their corresponding commercial checking accounts, creating a fictitious balance. Gary ceased this activity when it was discovered in December 2005, by FTB. FTB lost approximately \$1,710,149.00 as a result of the fraud. FTB entered into a settlement agreement with Mr. Varney, pursuant to which Mr. Varney paid approximately \$1,000,000.00 in final settlement of FTB's claims.

At all times, the defendant knew that he was taking funds to which he was not entitled by using the one-day float created between the four accounts to inflate the balances of the commercial checking accounts at FTB. FTB is and was a financial institution, the deposits of which are and were insured by the Federal Deposit Insurance Corporation. The defendant's activities were conducted in the Southern District of Ohio.


 GARY L. VARNEY
 Defendant


 PATRICK J. HANELY
 Counsel for Defendant